

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARY CANDIDO, individually and on
behalf of all others similarly situated

Plaintiffs,

v.

UPPER DARBY TOWNSHIP

Defendants.

CIVIL ACTION NO. 23-1542

ORDER

AND NOW, this 27th day of February 2024, upon consideration of Defendant's Motion to Dismiss [Doc. No. 11]; Plaintiff's Response; and Defendant's Reply, it is hereby **ORDERED** that Defendant's Motion is **GRANTED in part and DENIED in part** as follows:

1. Plaintiff's Fifth and Fourth Amendment claims under 42 U.S.C. § 1983 are **DISMISSED without prejudice**. If Plaintiff wishes to proceed with a Fifth or Fourth Amendment claim under 42 U.S.C. § 1983, Plaintiff may file an amended complaint by or before **March 15, 2024**.
2. Plaintiff's State Constitution claim under 42 U.S.C. § 1983 is **DISMISSED with prejudice**.
3. Plaintiff's negligence claim is **DISMISSED with prejudice** under Pennsylvania's Political Subdivision Tort Claims Act.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.